



California Pan-Ethnic Health Network

Building on 20 years as a champion for health equity

July 11, 2012

Toby Douglas, Director
Department of Health Care Services
Sacramento, CA 95814

**Re: California's Draft Initial Plan Implementing the ACA in California:
Transitioning the Low Income Health Program to ACA Coverage Options**

On behalf of the California Pan-Ethnic Health Network, we greatly appreciate the opportunity to share our comments with you regarding the Department of Health Care Services' (DHCS) Draft Initial Plan: Transitioning the Low Income Health Program to ACA Coverage Options. CPEHN is a statewide multicultural health advocacy organization working to improve the health of communities of color in California. CPEHN's mission is to improve access to health care and eliminate health disparities by advocating for public policies and sufficient resources to address the health needs of our communities.

General Comments:

DHCS has a daunting task in the next eighteen months of transitioning up to 500,000 enrollees of the Low-Income Health Program (LIHP) into full coverage options in 2014. California's Draft Initial Plan will help to ensure the state minimizes disruption to care while maximizing enrollment into Medi-Cal and the Exchange for California's low-income populations. While the plan is a good first start, we have several key concerns that we would urge DHCS to remedy in its final plan. Most significant for us, is the overall lack of clarity in the plan with respect to the availability of translated written notices and oral interpretation for LIHP enrollees during this transition. We are also concerned about the general lack of clarity with respect to the content of communications about the transition with LIHP enrollees and urge you to amend the Draft Plan to ensure that LIHP enrollees are better able to make informed choices in 2014.

Language Access:

There are important language access provisions that must be incorporated into the Draft Initial Plan in order to ensure that the transition process runs smoothly for California's Limited-English-Proficient (LEP) populations. According to the most recent quarterly data on the Low Income Health

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Program, communities of color are the majority (67%) of those enrolled in the program with Limited English Proficient (LEP) comprising close to thirty percent of enrollees.¹ For the LIHP transition to succeed DHCS and county LIHP programs must provide access to translated written materials in the Medi-Cal Managed Care threshold languages and oral interpretation in ANY language as required by state and federal law.² Medi-Cal and the Exchange are subject to Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act (since they will receive federal funds).³ It has been a longstanding recognition under Title VI, reiterated with the enactment of the nondiscrimination provision in Section 1557, that oral communication with LEP enrollees must be in a language that they understand.

There is no mention of language access with respect to written notices: We are concerned that DHCS' draft initial plan does not address language access with respect to general communications and notices. DHCS states that their outreach and communication effort "will include general notification of the LIHP transition to enrollees during 2013 and information on any available transition assistance," (page 2). Further, each LIHP enrollee will receive a notice "no sooner than 90 days prior to January 1, 2014" informing enrollees of the transition and plan assignment, an enrollee's Primary Care Provider (PCP) or Medical Home in LIHP, as well as their right to change plans starting in January 2014 (page 4). In neither instance is there a mention of how DHCS will target outreach and communications to the close to thirty percent of LIHP enrollees who are Limited-English Proficient (LEP). This must be clarified and changed in the proposal.

Oral interpretation must be provided in ANY language: Additionally, we are concerned by the language DHCS uses to explain how they will provide transition assistance to LEP populations, as they seem to be applying "threshold languages" to both translation of documents and use of interpreters, when thresholds should only apply to translated documents and oral interpretation should be provided in ALL languages. Specifically DHCS states: "Enrollees will be informed regarding how to access transition assistance in all communications and telephone assistance for plan assignment will be available in at least the 14 threshold languages," (page 5).

CPEHN's Recommendation: CPEHN respectfully requests that DHCS amend the Draft Initial Plan to ensure that LIHP enrollees receive notices in their primary language and are

¹ "Low Income Health Program and LIHP Transition," Stakeholder Advisory Committee Meeting, April 23, 2012: <http://www.dhcs.ca.gov/provgovpart/Documents/LIHP/Presentations/StkhldAdvrsyCmmttMtg42312.pdf>

² MediCal managed care contract language, *Exhibit A, Attachment 9, Section 13* http://www.dhcs.ca.gov/provgovpart/Documents/MMCD_Two-Plan_Boilerplate.pdf

³ Title VI, 1964 Civil Rights Act 42 USC 2000d

aware of their right to oral interpretation in any language. We request the following language be added to the Draft Initial Plan:

“All written notices to LIHP enrollees regarding the transition, including eligibility for Medi-Cal or the Exchange, identification of Primary Care Provider (PCP) or Medical Home, plan assignment, and transition assistance will be provided in Medi-Cal Managed Care threshold languages as required by state law. The notices will also include a tagline in at least 16 different languages with a telephone number they can call for assistance, as well as informing individuals that oral interpretation at all points during the transition, including assistance with health plan choice, will be provided in any language at no cost to the individual as required by state and federal law.”

Under Transition Assistance we request the following language be added to the Draft Initial Plan:

“DHCS will provide oral interpretation assistance at all points during the transition, including assistance with health plan choice to LIHP enrollees in any language at no cost to the enrollee.”

General Communications:

In addition to proper written notice in Medi-Cal Managed Care threshold language and notice of the right to oral interpretation in ANY language during all points of the transition process, CPEHN reiterates the request by Consumers Union for additional language in the Draft Plan, ensuring that notices to LIHP participants will be adequate to ensure that enrollees are able to make informed choices about transitioning to Medicaid and/or the Exchange. Specifically, we would draw your attention to the following suggestions:

- Clear communication about the change in program including the availability of more comprehensive coverage under Medicaid and/or the Exchange.
- Specific information in the alerts regarding the ability of LIHP enrollees to opt-out of coverage, notification that the program is ending after December 2013 and an explanation that informs LIHP enrollees that a decision to opt-out of the program will result in a loss in health coverage.
- Detailed information about the timeline and process for opting-out and/or changing health plan assignments.
- Information specifically for Exchange-eligible individuals about the exemptions from and penalties for failure to obtain health coverage.

Additional issues:

- We agree with and reiterate the recommendation of Western Center on Law & Poverty that consumers be given a choice about what plan they are enrolled in before January 1, 2014, if possible, in order to allow sufficient time for enrollees to access meaningful care in 2014.

- DHCS should take into account as a part of its “established algorithm” for plan assignment, the languages spoken by LIHP enrollees and those by MMCP providers to ensure enrollees can access services in their primary language.
- We support DHCS’ objective of ensuring that MMCPs meet network adequacy requirements including language access and timely access to care and urge DHCS to request federal flexibility to ensure that LIHP enrollees can still access LIHP services for a short time during the initial transition to a new MMCP in order to ensure continuity of care for this population.

In conclusion, California has a unique opportunity to expand health care coverage for up to 500,000 LIHP enrollees in 2014. CPEHN appreciates the opportunity to comment on DHCS’ Draft transition Plan and looks forward to working with the state to ensure that the LIHP transition is a huge success.

Sincerely,

A handwritten signature in black ink, appearing to read "Caroline B. Sanders". The signature is fluid and cursive, with a prominent initial "C" and "S".

Caroline B. Sanders
Director Policy Analysis